

FINDINGS OF FACT AND CONCLUSIONS OF LAW

which was quite low, and had the claimant lie down while she called claimant's personal physician. The nurse returned after she contacted the claimant's personal physician and told the claimant that her doctor wanted her to go home. As the claimant was getting up from the bed in the health center, she testified that she stepped on some orange juice she had spilled on the floor. Her foot slipped on the orange juice and she fell backwards on the cement floor, hitting her head and tailbone. Claimant lost consciousness after her head struck the cement floor. She was immediately taken to the emergency room at the University of Kansas Medical Center for examination and treatment. She was subsequently referred to John A. Holmes, M.D., for treatment of her head, tailbone and cervical injuries.

The controlling question, in this case, is whether claimant's fall arose out of and in the course of her employment. K.S.A. 44-501(a). An injury arises "out of" employment if it arises out of the nature, conditions, obligations, and incidents of the employment. Siebert v. Hoch, 199 Kan. 299, 428 P. 2d 825 (1967). The Administrative Law Judge found that claimant's fall, which occurred at the health center located on respondent's premises, was caused by her slipping on spilled orange juice, not by her low blood pressure. The claimant testified that she did not black out until she lost consciousness after her head hit the concrete floor. Claimant further testified that she did not realize that she had slipped on the orange juice until she returned to work and observed the accident scene at the health center. She explained that this was the reason she did not provide contemporaneously the history of slipping on the floor to the treating medical personnel.

The Administrative Law Judge had an opportunity to observe the claimant in person and found claimant's explanation of how her accidental injury occurred as plausible. Accordingly, the Appeals Board affirms the Administrative Law Judge's decision that granted claimant compensation benefits and found that claimant's fall and resulting injury arose out of and in the course of her employment with the respondent.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge Robert H. Foerschler dated August 7, 1995, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of October, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: William W. Hutton II, Kansas City, Kansas
Debera A. Erickson, Kansas City, Kansas

Robert H. Foerschler, Administrative Law Judge
Philip S. Harness, Director